

Financial **Advice**
NEW ZEALAND

know where you stand
Mahony Horner Lawyers 



Privacy Act 2020

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(Very) Quick Overview

- Commenced 1 December 2020
- Refresh
- “*Personal information*” – information about an identifiable individual
- Broad

Information Privacy Principles (IPPs)

- 99 per cent unchanged
- One new, some strengthened
- Mostly shuffled subparagraphs

IPP1 — Purpose of collection

- (1) Personal information must not be collected by an agency unless—
 - (a) the information is collected for a **lawful purpose connected with a function or an activity of the agency**; and
 - (b) the collection of the information is **necessary for that purpose**.
- (2) If the lawful purpose for which personal information about an individual is collected does not require the collection of an individual's identifying information, the agency **may not require the individual's identifying information**.

IPP4 — Manner of collection

- Lawful means
- Fair and not unreasonably intrusive
- Children and young persons

IPP12 — Overseas disclosure

- Informed consent
- Recipient carrying on business in New Zealand
- Recipient subject to comparable laws
- Recipient participant of binding scheme
- Recipient in prescribed country
- Comparable safeguards

Notifiable Privacy Breaches

- Notify the Privacy Commissioner and “*affected individuals*”



Notifiable Privacy Breaches

“Privacy breach”

- Unauthorised or accidental
- Access, disclosure, alteration, loss, or destruction
- Loss of access (temporary or permanent)
- Internal or external
- Ended or on-going

Notifiable Privacy Breaches

“Privacy breach” examples:

- Incorrect recipient
- Incorrect attachment
- Employee browsing
- Cyber attacks (hacking)
- Incorrect information

Notifiable Privacy Breaches

“Harm”

- Loss, damage, detriment, or injury
- Adverse effect
- Humiliation, loss of dignity, or injury to feelings

Notifiable Privacy Breaches

“Serious harm”

- Physical harm or intimidation
- Financial crime
- Family harm
- Psychological or emotional harm

Notifiable Privacy Breaches

Determining “*serious harm*”

- Actions taken to reduce risk of harm
- Sensitivity of information
- Nature of harm
- Who
- Security measures

Notifiable Privacy Breaches

- Person or body in possession
- Steps taken
- Steps to take
- Privacy Commissioner
- Right to complain
- Contact person

Notifiable Privacy Breaches

- Describe the breach
- Affected individuals
- Recipients in possession
- Steps
- Contact

Notifiable Privacy Breaches

- Internal practices
- Training
- Final call
- Low bar
- Follow up
- Resourcing

Compliance Notices

- Comply as soon as practicable
- Remedy by date
- Human Rights Review Tribunal
- \$10,000 fine

Enforceable Access Directions

- IPP6 (Access) complaint
- Confirm
- Access
- Provide
- \$10,000 fine

New Offences

- Impersonation
- Destruction
- \$10,000 fine

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